

January 23, 2019

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, Maryland 21286

Re: St. Stephens Roman Catholic Congregation, Inc.  
8030 Bradshaw Road  
Kingsville, Maryland 21087  
Forest Conservation Special Variance  
Tracking # 05-18-2817

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6, Forest Conservation, was received by the Department of Environmental Protection and Sustainability (EPS) on December 6, 2018. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 0.4-acre (17,385 square feet) limit of disturbance rather than the entire 35.7-acre property. This variance request also includes impacts to two specimen trees for the same project. The project proposes to grade 0.4-acre in order to construct a new middle school building as an addition to the existing educational campus on the school portion of the church property located in the Kingsville section of Baltimore County. The property is partially forested, however, the project does not propose forest impacts. The new facility will be constructed in place of a smaller building (to be razed) and over an existing parking lot/lawn area.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

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The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to make improvements to an existing school facility that serves the surrounding area. Adult education, youth ministry and outreach programs are developing, and enrollment in the school and classes is increasing. These improvements are necessary to ease school overcrowding and maintain the functionality of ongoing operations. Full application of the law to the entire property would deprive the applicant of beneficial use of the property and has the potential to negatively affect its value. The two specimen trees to be impacted are 42-inch diameter at breast height (DBH) and 43-inch (DBH) white oaks (*Quercus alba*), in good condition. The proposed limit of disturbance results in unavoidable impacts, encroaching into the trees' critical root zones (CRZ) to the extent that their survivability is severely compromised, and they are to be considered removed, taking into account the existing impacts within the CRZs to these trees: concrete walkways, access roadway, and a portion of an existing building. The trees are within a centralized location adjacent to existing educational facilities. We acknowledge that the location of the proposed construction is the most feasible, given that the classroom building must be located within the school portion of the property and that other alternatives would encroach into vehicular traffic patterns in the parking lot and/or eliminate existing parking spaces. Therefore, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The existing church was constructed in 1890 and the school has been operating since the 1930's. The church and school serve the surrounding area, which has been developed as single-family homes. Making the proposed improvements, involving unavoidable impacts to two specimen trees, to better serve the surrounding area and the school is due to unique circumstances associated with the subject property and its operation, rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Only approximately 0.4-acre of the 35.7 acre property would be disturbed for the improvements associated with the school facility that has been in the neighborhood for decades. The use and appearance of the site will be maintained and many other mature trees will remain. Therefore, we find that this criterion has been met.

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The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that there are no wetlands, streams or floodplains on or immediately near the property and that no forest will be impacted. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any related actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the afforestation obligation based on the limit of disturbance and impacting two specimen trees for necessary expansion and upgrades of an existing school facility would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. A Forest Conservation Plan (FCP) is required prior to the issuance of any permits. The FCP will include an afforestation requirement of 0.1-acre at \$0.55 per square foot. The FCP will include mitigation for the removal of two specimen trees, as follows, based upon 25% of the area of the critical root zone, at \$0.55 per square foot: 43-inch white oak-\$1,796.18/ 42-inch white oak-\$1,713.61/ Total-\$3509.79
2. The afforestation and mitigation requirements must be satisfied prior to the issuance of any permits.

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It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request. This variance does not exempt future development of this site from complying with Baltimore County's Forest Conservation Law. Please have the property owner (s) sign the statement below and return a signed copy of this letter to this Department prior to building permit issuance. If you have any questions regarding this correspondence, please contact Thomas Panzarella at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Acting Director

DVL/tcp

I/we agree to the above conditions to bring the referenced property into compliance with Baltimore County's Forest Conservation Law.

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Signatures(s) of Property Owner(s)

Date

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Property Owner's Printed Names

StStephensChurchFCVA.LOD&SpecTreesJan22.19.doc/sheir/TCP